

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

PCA Industries, LLC, doing business as
PCA Metal Finishing, Incorporated
1726 E. Rosslynn Avenue
Fullerton, California 92831

ID No.: CAD 038 632 522

PCA Industries, LLC, doing Business as
PCA Metal Finishing, Incorporated

Robert H. Winters, an individual

Respondents

Docket HWCA20050952

CONSENT ORDER

Health and Safety Code
Section 25187

The State Department of Toxic Substances Control (Department) and PCA Industries, LLC, a Limited Liability Company doing business as PCA Metal Finishing, Incorporated and Robert H. Winters (hereinafter together "Respondents") enter into this Consent Order and agree as follows:

1. Respondents generate and treat hazardous waste at 1726 and 1818 E. Rosslynn Avenue, Fullerton, California 92831 (Facility).

2. Permit Status: Respondents are authorized to conduct treatment of hazardous waste pursuant to Permit-By-Rule issued by the Orange County Health Care Agency, Environmental Health (OC CUPA), dated October 22, 2001, for the treatment of metal bearing wastewaters, the drying of wastewater treatment sludge, and the batch treatment of acid and alkaline wastes.

3. The Department inspected the Facility on August 23 and 24, 2005.

4. The Department alleges the following violations:

4.1. On or about August 23 and 24, 2005, Respondents violated the California Code of Regulations, title 22, section 66265.31 in that the Facility was not operated in a manner that minimizes the possibility of a release to the environment. The following areas within the Facility were noted with staining, liquid outside of the secondary containment, or solids in an uncontained area:

- a. East edge of the main plate line, adjacent to chrome plate/rinse area (south side line).
- b. Steel shot was noted at the base of all three shot machines.
- c. Floors behind the tri-acid air pollution control device and beneath filters for nickel plate baths.
- d. Floors in the robotic buffing station room.
- e. Floor at the southwest corner of the manual plate line (old hoist line, north side).

4.2. On or about August 23 and 24, 2005, Respondents violated the California Code of Regulations, title 22, section 67450.3, subdivision (c)(9), which incorporates by reference California Code of Regulations, title 22, section 66264.175, in that the container and piping used to transfer laboratory waste to the Permit-By-Rule (PBR) system was not located in a containment system.

4.3. On or about August 23 and 24, 2005, Respondents violated the California Code of Regulations, title 22, section 66268.7 in that the following manifests which were used to transport D002 wastes containing nickel and copper or D007 wastes containing chrome contaminated debris were found to not have the required Land Disposal Restriction paperwork: 22991710, 24096332, 24096196, 24096132, 24135696, 23786156, and 22991888.

4.4. On or about August 23 or 24, 2005, Respondents violated the California Code of Regulations, title 22, section 66265.52 in that the Facility contingency plan did not contain a list of the locations, descriptions and types of emergency equipment at the Facility.

5. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

6. Jurisdiction exists pursuant to Health and Safety Code section 25187.

7. Respondent waives any right to a hearing in this matter.
8. This Consent Order shall constitute full settlement of the violations alleged above, but does not limit the Department from taking appropriate enforcement action concerning other violations.
9. The Respondents admit the violations described above.

SCHEDULE FOR COMPLIANCE

10.1. Respondents certify that they have corrected the violations cited in paragraphs 4.1, 4.2, 4.3, and 4.4 above. The Department relies on this representation in issuing this Consent Order.

10.2. Submittals: All submittals from Respondents pursuant to this Consent Order shall be sent simultaneously to:

Mr. Charles A. McLaughlin, Chief
State Oversight and Enforcement Branch
Enforcement and Emergency Response Program
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

Ms. Denise Fennesy
Orange County Health Care Agency
Environmental Health
1241 E. Dyer Road, Suite 120
Santa Ana, California 92705-5611

10.3. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondents shall be construed to relieve Respondents of their obligation to obtain such formal approvals as may be required.

10.4. Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to

this Consent Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may return the document to Respondents with recommended changes and a date by which Respondents must submit to the Department a revised document incorporating the recommended changes.

10.5. Compliance with Applicable Laws: Respondents shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

10.6. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Consent Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondents to stop further implementation for such period of time as needed to abate the endangerment. Any deadline in this Consent Order directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

10.7. Liability: Nothing in this Consent Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondents, except as provided in this Consent Order. Notwithstanding compliance with the terms of this Consent Order, Respondents may be required to take further actions as are necessary to protect public health or welfare or the environment.

10.8. Site Access: Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Consent Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives may enter and move freely about all property at the Site at all reasonable times for

purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondents in carrying out the terms of this Consent Order; and conducting such tests as the Department may deem necessary. Respondents shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Consent Order.

10.9. Sampling, Data, and Document Availability: Respondents shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondents or on Respondents' behalf in any way pertaining to work undertaken pursuant to this Consent Order. Respondents shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondents pursuant to this Consent Order. Respondents shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Consent Order. All such data, reports, and other documents shall be preserved by Respondents for a minimum of six years after the conclusion of all activities under this Consent Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondents shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondents shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Consent Order.

10.10. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondents or related parties specified in paragraph 12.3, in carrying out activities pursuant to this Consent Order, nor shall the State of California be held as a party to any contract entered into by Respondents or their agents in carrying out activities pursuant to this Consent Order.

10.11. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondents pursuant to this Consent Order are incorporated in this Consent Order upon approval by the Department.

10.12. Extension Requests: If Respondents are unable to perform any activity or submit any document within the time required under this Consent Order, the Respondents may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

10.13. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

PAYMENTS

11.1. Respondents shall pay the Department a total of \$35,000 as a penalty.

11.2. Payment is due in the amounts and on the dates set forth below.

August 1, 2007	\$ 8,750.00
November 1, 2007	\$ 8,750.00
February 1, 2008	\$ 8,750.00
May 1, 2008	\$ 8,750.00

11.3. In the event that any payment is not received at the address set forth below by the tenth day of the month in which it is due, the entire remaining balance shall become due and payable immediately.

11.4. Respondents' checks shall be made payable to Department of Toxic Substances Control, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of each check shall be sent to:

Mr. Charles A. McLaughlin, Chief
State Oversight and Enforcement Branch
Enforcement and Emergency Response Program
Department of Toxic Substances Control
8800 Cal Center Drive, Suite 300
Sacramento, California 95826-3200

and

Ms. Debra Schwartz, Staff Counsel
Office of Legal Counsel
Department of Toxic Substances Control
1011 N. Grandview Avenue
Glendale, California 92101

11.5. If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

OTHER PROVISIONS

12.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

12.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondents to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

12.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondents and their officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

12.4. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

12.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

12.6. Compliance with Waste Discharge Requirements: Respondents shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board. Notices under this paragraph are subject to paragraph 10.2.

Dated: June 28, 2007

Original signed by Robert H. Winters
Robert H. Winters, C.E.O, for
PCA Industries, LLC, doing business as PCA
Metal Finishing, Incorporated, Respondent

Dated: June 28, 2007

Original signed by Robert H. Winters
Robert H. Winters, an individual, Respondent

Dated: July 2, 2007

Original signed by Charles A. McLaughlin
Charles A. McLaughlin, Chief
State Oversight and Enforcement Branch
Enforcement and Emergency Response Program
Department of Toxic Substances Control